

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:94CR111-12

UNITED STATES OF AMERICA)
)
vs.) ORDER
)
DWIGHT LAMONT HUNTER)
_____))

This matter is before the court upon remand from the Fourth Circuit Court of Appeals to determine whether the defendant has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. Mr. Hunter seeks to appeal this court's Order denying his motion filed under 18 U.S.C. § 3582(c) (2006). Judgment was entered on April 8, 2009, and defendant filed his *pro se* Notice of Appeal on April 28, 2009, after the expiration of the ten-day period allowed for appeal. See Fed. R. App. P. 4(b)(1)(A). However, the Notice of Appeal was filed within the thirty -day period in which the court may grant an extension of time upon a showing of excusable neglect or good cause. See Fed. R. App. P. 4(b)(4).

In his Notice of Appeal, the defendant indicates that he did not receive a copy of the Judgment until after April 21, 2009, and attaches a copy of the envelope indicating a postmark date of April 21, 2009. Accordingly, the court finds that the defendant has shown good cause to extend the time period for filing his Notice of Appeal.

IT IS SO ORDERED.

Signed: November 24, 2009



Graham C. Mullen
United States District Judge

